



**MILPITAS CITY COUNCIL AND REDEVELOPMENT AGENCY
MEETING AGENDA
TUESDAY, SEPTEMBER 6, 2011**

7:00 P.M.

SUMMARY OF CONTENTS

- I. CALL TO ORDER AND ROLL CALL**
- II. PLEDGE OF ALLEGIANCE**
- III. INVOCATION** (Councilmember Giordano)
- IV. APPROVAL OF COUNCIL MEETING MINUTES** – August 16 and August 23, 2011
- V. SCHEDULE OF MEETINGS – COUNCIL CALENDAR** for September 2011
- VI. PRESENTATIONS**

- Commendations to students Isaac Chang and Hursh Desai for winning state and regional awards as part of the Randall Elementary Science, Technology and Math Academy
- Proclaim September 2011 as *National Preparedness Month*

VII. PUBLIC FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

VIII. ANNOUNCEMENTS

IX. ANNOUNCEMENT OF CONFLICT OF INTEREST

X. APPROVAL OF AGENDA

XI. CONSENT CALENDAR (Items with asterisk*)

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

XII. UNFINISHED BUSINESS

- * 1. **Receive Progress Report from Public Works Director on Emergency Contract Work Order for the Variable Frequency Drives and Pump/Motor Assemblies for Ayer Pump Station, Project No. 7102 (Staff Contact: Greg Armendariz, 586-3317)**
- * 2. **Receive the August 2011 Odor Control Report (Staff Contact: Kathleen Phalen, 586-3345)**

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order/Roll Call by the Mayor/Chair

RA2. Approval of Minutes – August 2, 2011

RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)

***RA4. Approve Year End Budget Adjustments for Fiscal Year 2010-11** (Staff Contact: Emma Karlen, 586-3145)

***RA5. Adopt a Resolution Granting Initial Acceptance of, and Reducing Performance Bond for the Soundwall Renovation, Project No. 8196** (Staff Contact: Steve Erickson, 586-3301)

RA6. Agency Adjournment

XIV. REPORTS

*** 3. Consider Mayor’s Recommendations for Appointments/Re-appointments to Seven Milpitas Commissions** (Contact: Mayor Esteves, 586-3029)

4. Consider a Resolution Supporting the Food and Drug Administration’s (FDA) Regulation of Mentholated Cigarettes and Flavored Tobacco Products (Contact: Althea Polanski, 586-3024)

Public Art Committee

5. Approve the Public Art Project for the Alviso Adobe Park (Staff Contact: Renee Lorentzen, 586-3409)

Transportation and Land Use Subcommittee

*** 6. Approve Comment Letters on the “One Bay Area” Grant Proposal and the Bay Plan Amendment** (Staff Contact: James Lindsay, 586-3273)

XV. NEW BUSINESS

*** 7. Approve the Accounts Receivable Write-offs for the Fiscal Year Ended June 30, 2011** (Staff Contact: Emma Karlen, 586-3145)

*** 8. Approve a Fee Waiver In-Kind Donation and Staffing for the Milpitas Community TV Community Event at the Civic Center Amphitheater on October 22, 2011** (Staff Contact: Aaron Bueno, 586-3226)

*** 9. Approve Fee Waiver and In-Kind Donation of Equipment and Staffing for Milpitas Parks and Recreation Foundation’s 4th Annual “Festival of Trees” Gala Fundraiser at City Hall Rotunda on December 1, 2011** (Staff Contact: Renee Lorentzen, 586-3409)

XVI. ORDINANCE

*** 10. Waive the Second Reading and Adopt Ordinance No. 101.21 for Amendment to the Contract Between the Board of Administration California Public Employees’ Retirement System (PERS) and the City of Milpitas** (Staff Contact: Carmen Valdez, 586-3086)

XVII. RESOLUTIONS

*** 11. Adopt a Resolution Approving the 2011 City of Milpitas Records Retention Schedule** (Staff Contact: Donna Biles, 586-3003)

- * 12. **Adopt a Resolution Awarding a Contract to EcoPlexus, Inc. for the Main Sewer Pump Station Vehicle Canopy, Project No. 6079 (Staff Contact: Greg Armendariz, 586-3317)**
- * 13. **Adopt a Resolution Annexing Certain Real Property Commonly Known as the Los Coches Residential Project into Community Facilities District No. 2005-1, Project No. 2653 (Staff Contact: Fernando Bravo, 586-3328)**
- * 14. **Adopt a Resolution Approving Certain Rental Rates for the Barbara Lee Senior Center Classrooms and Community Room (Staff Contact: Renee Lorentzen, 586-3409)**
- * 15. **Adopt a Resolution Renewing the Sole Source Designation, and Authorizing the City Manager to Execute Amendment No. 6 to the Agreement with ThyssenKrupp for the Elevator Platinum Maintenance and Repair for the Annual Not-to-Exceed Amount of \$30,054.86 (Staff Contact: Chris Schroeder, 586-3161)**

XVIII. BIDS AND CONTRACTS

- * 16. **Approve the Side Letter Agreement Between the City of Milpitas and the Milpitas Police Officers Association (MPOA) (Staff Contact: Carmen Valdez, 586-3086)**
- * 17. **Award Bid No. 2010 for 9 Hewlett Packard Servers to Computer Land for the Not-to-Exceed Amount of \$39,189.24 Including Tax (Staff Contact: Chris Schroeder, 586-3161)**
- * 18. **Approve and Authorize the City Manager to Execute an Agreement with Harris & Associates and Approve a Budget Appropriation, (Staff Contact: Fernando Bravo, 586-3328)**

XIX. DEMAND

- * 19. **Approve the Purchase of Assorted Badger Water Meters from National Meter and Automation for \$63,056.49 (Staff Contact: Chris Schroeder, 586-3161)**

XX. ADJOURNMENT

**NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, SEPTEMBER 20, 2011, AT 7:00 P.M**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mogaz@ci.milpitas.ca.gov / Fax: 408-586-3056 / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council/Redevelopment Agency after initial distribution of the agenda packet are available for public inspection at the City Clerk's Office/Information Desk at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, and at the Milpitas Library during normal business hours.

APPLY TO BECOME A CITY COMMISSIONER!

Current vacancy exists for the:

*Emergency Preparedness Commission (large industry rep.)
Mobile Home Park Rental Review Board*

Applications are available online at www.ci.milpitas.ca.gov or at the City Hall Information Desk.
Contact the City Clerk's office (586-3003) for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 586-3001 or send an email to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the Council Chambers for all meetings. TDD phone number (408) 586-3013.

AGENDA REPORTS

XII. UNFINISHED BUSINESS

- * 1. **Receive Progress Report from Public Works Director on Emergency Contract Work Order for the Variable Frequency Drives and Pump/Motor Assemblies for Ayer Pump Station, Project No. 7102 (Staff Contact: Greg Armendariz, 586-3317)**

Background: On March 15, 2011, Council approved a budget appropriation for an emergency contract with Anderson Pacific, Inc. for replacement of a failed variable frequency drive (VFD) which controls one of three electric motor and pump assemblies. The work scope also includes emergency replacement of a second existing pump and motor assembly which has exhibited excessive wear, resulting in excessive vibration. Lastly, due to their age, and lack of available parts, the remaining two VFDs are also being replaced. These emergency actions were taken in order to maintain the reliability and serviceability of the Ayer pump station, and thus protect the public health and safety of the community at large.

This progress report is provided pursuant to Resolution No. 7779 approved by the Council, authorizing the Public Works Director to order emergency contract work. The following work has been performed to date:

- Contractor and Engineering staff developed a staged construction plan, which maintains the pump station operational at all times;
- A high weight capacity crane was mobilized to the site to pull the motor and pump assemblies #1, #2 and #3 from the pump building, through an access roof hatch;
- All motor and pump assemblies have now been rebuilt, tested and re-installed;
- One pump suction barrel has been reconditioned and painted;
- The three new VFDs were delivered to a local assembly shop for final adjustment prior to being installed at the pump station.

The cost for this emergency contract work was initially estimated not to exceed \$650,000, and the work is currently within this budget. All work is planned to be completed by the end of September.

Fiscal Impact: None. Sufficient funds are available in the Project budget.

Recommendation: Receive the progress report from the Public Works Director on the emergency contract work order for the Variable Frequency Drives/Pump Motor Assemblies for the Ayer Pump Station, CIP No. 7102.

- * 2. **Receive the August 2011 Odor Control Report (Staff Contact: Kathleen Phalen, 586-3345)**

Background: From July 23, 2011 through August 30, 2011, the Bay Area Air Quality Management District (BAAQMD) received seven odor complaints originating in Milpitas. Four identified a garbage-related odor, one identified sewage related odor, and two did not identify a source. As of the last Council update, the City's odor reporting program has received three reported complaints. Staff activities to coordinate with the City of San Jose on Water Pollution Control Plant odor mitigation efforts are described in the report (in Council agenda packet).

Fiscal Impact: None.

Recommendation: Receive the August 2011 odor report.

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

***RA4. Approve Year End Budget Adjustments for Fiscal Year 2010-11 (Staff Contact: Emma Karlen, 586-3145)**

Background: Finance staff is in the process of closing the City and Redevelopment Agency revenue and expenditures accounts for the fiscal Year 2010-11. To maintain conformity with the City's budgeting policies and to prepare for the annual external audit, year-end budget adjustments are necessary to address items that were not known at the time the FY 2010-11 budget was developed.

All funds, departments and project budgets have been reviewed to determine necessary adjustments. The detail for each budget adjustment item is described below.

- 1) Increase the budget appropriations for Fire Department by \$32,872. The Fire department incurred more overtime expenditure than anticipated in the budget. The source of funding will be from the General Fund.
- 2) Increase the budget appropriations for Planning and Neighborhood Services by \$26,992. The increased budget amount is related to Community Development Block Grants (CDBG) provided to the community in FY 2010-11. Actual grants were more than anticipated in the budget. These grants will be fully reimbursable by the U.S. Department of Housing and Urban Development.
- 3) Transfer budget appropriations from Finance Department to Building and Safety Department for \$1,486 for administration of the CDBG. The transfer is to reallocate the administration budget among the two departments. Since the budget was prepared based on estimates only, actual expenditures may vary by small amount. There is no budget impact from the transfer among departments.
- 4) Increase the budget appropriation of CIP No. 4247 Suggested Routes to School by \$36,000. The increased amount represents 25% local matching of the grant amount received from CalTrans. The local matching portion consists of staff in-kind services. The accounting of those service costs need to be moved into the project and the source of funding will be from the Street Fund.

In addition, staff requests that three capital improvement projects that were scheduled to close on June 30, 2011 remain open until December 31, 2011 due to pending receipt of final invoices and one project is still under warranty work. The three projects are CIP No. 3702 Minor Storm Drain Projects 2009, CIP No. 8176 Senior Center and CIP No. 8165 N. Main Street Midtown Streetscape Improvement.

The budget adjustments have been reviewed with the Finance Subcommittee on August 18, 2011. The Finance Subcommittee recommends the City Council approve the FY 10-11 year end budget adjustments. As the budget adjustments reflect expenditures and contractual commitments made prior to June 30, 2011, the expenditures that were disbursed from the Redevelopment funds constitute preexisting enforceable obligations under ABX1 26. They are therefore not subject to the California Supreme Court stay on Agency activities.

Fiscal Impact: The budget adjustments reduce the fund balances of the General Fund by \$32,872 and Street Fund by \$36,000 respectively. The budget adjustment related to the CDBG will be reimbursed by the U.S. Department of Housing and Urban Development. The budget transfer among departments has no fiscal impact.

Recommendation: Approve the Fiscal Year 2010-11 year-end budget appropriations as itemized in the budget change form which is included in the Agency/Council agenda packet and approve three capital improvement projects to remain open.

***RA5. Adopt a Resolution Granting Initial Acceptance of, and Reducing Performance Bond for the Soundwall Renovation, Project No. 8196 (Staff Contact: Steve Erickson, 586-3301)**

Background: The Agency and City Council awarded the Soundwall Renovation Project to Ashron Construction and Renovation, Inc. on June 7, 2011. The project provided for repair and painting of City-owned soundwalls located along the north side of Escuela Parkway from Milpitas Blvd. to Donahe Drive. Repairs include removal of loose and fractured concrete, patching, and final painting with an elastomeric paint to help prevent decay. The project was successfully completed on time and under budget. Staff recommends the Agency/City Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor's faithful performance bond to \$5,900.00, which is 10% of the final contract value.

Since acceptance of this project is required under a contract that was awarded by the Agency and the City prior to June 30, 2011, it is not subject to the California Supreme Court's "stay" of Agency activities under ABX1 26. This project may therefore proceed per the contract document specifications and conditions.

Fiscal Impact: None.

Recommendation: Adopt a resolution of the Redevelopment Agency and the City Council granting initial acceptance of the Soundwall Renovation, Project No. 8196, subject to a one year warranty period and reduction of the faithful performance bond to \$5,900.

RA6. Agency Adjournment

XIV. REPORTS

*** 3. Consider Mayor's Recommendations for Appointments/Re-appointments to Seven Milpitas Commissions (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following citizens be appointed/re-appointed to seven Milpitas Commissions as follows:

Bicycle Pedestrian Advisory Commission

Re-appoint Nawal Stanojevic to a term that expires in August 2014.

Community Advisory Commission

Appoint Edna R. Andres (current Alt. No. 1) as a regular member to a term to expire in Jan.2014.
Appoint Janice Bobay (current Alt. No. 2) as Alternate No. 1 to a term to expire in January 2013.
Appoint Jose Rosario (current Alt. No. 3) as Alternate No. 2 to a term to expire in January 2013.
Appoint Shirley Meirose (current Alt. No. 4) as Alternate No. 3 to a term to expire in Jan. 2012.
Newly appoint Thelma Batilo as Alternate No. 4 to a term to expire in January 2012.

Emergency Preparedness Commission

Re-appoint Brian Shreve (MUSD rep.) to a term that expires in June 2014.
Re-appoint Mercedes Albana as Alternate No. 1 to a term that expires in June 2013.

Library Advisory Commission

Re-appoint Sonny Wang to a term that expires in June 2013.

Parks, Recreation and Cultural Resources Commission

Re-appoint Naomi Matau to a term that expires in June 2014.

Sister Cities Commission

Re-appoint Dennis Grilli to a term that expires in September 2014.
Re-appoint Maria Magdalena Ortega to a term that expires in September 2014.

Re-appoint German Galvan as Alternate No. 2 to a term that expires in September 2013.

Youth Advisory Commission

Re-appoint Vicky Tu to a term that expires in September 2012.

Re-appoint Monica La to a term that expires in September 2012.

Re-appoint Veenu King to a term that expires in September 2012.

One copy of a Commission application for a new appointment is included in the Council agenda packets, along with additional applications from those not recommended at this time.

Recommendation: Consider the recommendations from Mayor Esteves, and move to approve his appointments and re-appointments to seven Milpitas Commissions.

4. Consider a Resolution Supporting the Food and Drug Administration's (FDA) Regulation of Mentholated Cigarettes and Flavored Tobacco Products (Contact: Althea Polanski, 586-3024)

Background: In 2009, Congress banned flavored cigarettes but exempted menthol from the ban. Recent information indicates menthol in cigarettes may result in greater intake of carcinogens and nicotine. There is additional information that indicates menthol may increase levels of nicotine dependence. Further, it appears that difficulty in quitting smoking in the Latino and African-American communities may be attributed to menthol.

Finally, there is indication that all flavoring, including menthol, makes tobacco products more palatable to children. According to the FDA, the tobacco industry has targeted children as future smokers by offering them flavored tobacco products. The proposed resolution supports FDA regulation of menthol and flavoring in all tobacco products.

Fiscal Impact: None.

Recommendation: Hear report of Councilmember Polanski, and consider adoption of a resolution supporting regulation of menthol in cigarettes and flavoring in all tobacco products.

Public Art Committee

5. Approve the Public Art Project for the Alviso Adobe Park (Staff Contact: Renee Lorentzen, 586-3409)

Background: On June 22, 2011, the Alviso Adobe Public Art Installation Subcommittee, consisting of members from the Public Art Committee, the Historical Society and the Parks, Recreation and Cultural Resources Commission, reviewed submitted art proposals for the Alviso Adobe Public Art project.

The Subcommittee chose two finalist project art pieces: the "Water Tower" and the "Wagon Sculpture." The Alviso Adobe Public Art project was approved at \$20,000.00 with the art piece scheduled to be contracted, completed and installed on a timeline parallel to the Alviso Adobe Park project opening.

Submitting artists were asked through the Public Art Committee's project Request for Proposals to submit proposals that features a visually interesting, safe, 3-dimensional public art piece that enhances the Alviso Adobe Park and identifies the historical significance of the Alviso Adobe. The RFP also stated that art piece should incorporate references to the Alviso Adobe and its historical significance.

On June 27, 2011, the Subcommittee's recommendations were presented to the Public Art Committee at its regular meeting. The Public Art Committee reviewed both finalists and voted to recommend art project "Wagon Sculpture" for City Council approval.

On August 1, 2011 the Public Art Committee's Alviso Adobe Public Art Project recommendation was presented to the Parks, Recreation and Cultural Resources Commission as an informational courtesy due to the intended location of the art piece. The Parks, Recreation and Cultural Resources Commissioners communicated with staff that they preferred the "Water Tower" project. They further suggested that if City Council did approve the "Wagon Sculpture" project, that the artist consider utilizing an existing historical Milpitas wagon in his project.

Fiscal Impact: None. Sufficient funds are available and allotted for this project in the Public Art budget.

Recommendation: Approve the Public Art Committee's recommended "Wagon Sculpture" for the Alviso Adobe Park Art Installation project.

Transportation and Land Use Subcommittee

*** 6. Approve Comment Letters on the "One Bay Area" Grant Proposal and the Bay Plan Amendment (Staff Contact: James Lindsay, 586-3273)**

Background: The Council's Transportation and Land Use Subcommittee reviewed these comment letters on August 23, 2011 and recommends the City Council approve them.

OneBayArea Grant Proposal: A proposal to establish the OneBayArea Grant program was released for public comment by the Metropolitan Transportation Commission (MTC) Planning Committee and the Association of Bay Area Governments Administrative Committee last month. The grant proposal would change the current formula based distribution (based on a city's population and road lane miles) for the Local Streets & Roads (LS&R) Shortfall Program and combine those funds with other competitive grants into the larger OneBayArea Grant to be used county-wide. MTC has historically set aside a portion of the federal Surface Transportation Program (STP) appropriation to fund the LS&R Program that assists local governments with pavement rehabilitation and preventive maintenance. The City of Milpitas was allocated \$692,347 in LS&R funds in the last federal appropriation cycle.

The grant proposal would also limit 70% of the funds for use only in designated Priority Development Areas (PDA) and require cities to have a certified general plan housing element and adopt regional parking and/or transportation policies. While this proposal may increase available transportation grants within Milpitas' PDA (established in January 2008), the grant funds will have more limitations and conditions placed on their acceptance. Also, the loss of non-competitive funding for pavement rehabilitation and preventive maintenance outside the PDA would be significant and will further impact the City's ability to fund future pavement work. The comment letter requests that MTC retain the LS&R distribution formula and not combine those funds into the OneBayArea Grant Proposal.

Bay Plan Amendment: The San Francisco Bay Conservation and Development Commission (BCDC) is a state agency that regulates activities in and around the San Francisco Bay. BCDC's decisions are guided by the findings and policies contained with the Bay Plan. In November 2008, BCDC authorized their staff to propose amendments to the Bay Plan that would, among other changes, create a new Climate Change section that addressed potential sea level rise. The proposed amendments have undergone several years of public meetings and four iterations to address the concerns of multiple stakeholders and recommends a regional strategy be developed by a number of regional and local agencies. Local agency priorities tend to get lost when multiple regional agencies are involved in developing policy. Therefore, the comment letter supports City participation in a smaller sub-regional working group that focuses on South Bay priorities in planning for possible future sea level rise.

Fiscal Impact: None.

Recommendation: Approve the comment letters on the OneBayArea Grant Proposal and the Bay Plan Amendment.

XV. NEW BUSINESS

- * 7. **Approve the Accounts Receivable Write-offs for the Fiscal Year Ended June 30, 2011 (Staff Contact: Emma Karlen, 586-3145)**

Background: In the Council's packet are two lists of accounts receivable: one for utility accounts and the other for non-utility accounts that have been outstanding for more than 12 months and remained unpaid. When the invoices were first sent to the customers, normal accounting procedures require us to record accounts receivable and revenues initially as the expectation is that the City would be able to collect the funds within a short period of time. However, when the accounts receivable have been outstanding for more than a year and after all the currently available collection methods have been exhausted, it is necessary to write off these accounts so as not to overstate the City's assets. The write-off lists have been reviewed with the Finance Subcommittee on August 18, 2011. The Finance Subcommittee recommends that that the City Council approve the write-offs.

The lists identify each account by the category of invoice, payee name and amount. It should be noted that during this eighteen month period, from July 1, 2008 through December 31, 2009, the City achieved an overall collection rate of 99.8%. The proposed write-offs amount of \$90,348.16 is approximately 0.2% of all the amounts invoiced during the same period. The following table shows the write-off rate by invoice category.

	Invoiced amounts	Proposed write-off amounts	% of invoiced amount
Utility accounts & Backflow Device Testing	\$ 38,884,148	\$ 58,320	0.15%
Animal Violation regulation	20,005	3,875	19.37%
NBO Violations	4,626	1,000	21.62%
Police False Alarms	64,450	3,750	5.82%
Fire Annual Permits	380,140	6,460	1.70%
Fire Alarm	38,400	3,600	9.38%
Private development jobs	1,557,801	10,890	0.70%
Public Works Cost Recovery	25,463	77	0.31%
Misc other & returned checks	6,304,513	2,376	0.04%
Total	\$ 47,279,546	\$ 90,348	0.20%

Fiscal Impact: Write-offs of \$90,348.16 from the outstanding accounts receivable will reduce the fund balances of the following funds:

General Fund: \$32,028.01
Utility Funds: \$58,320.15

Recommendation: Approve the Accounts Receivable Write-offs for the fiscal year ended June 30, 2011.

- * 8. **Approve a Fee Waiver In-Kind Donation and Staffing for the Milpitas Community TV Community Event at the Civic Center Amphitheater on October 22, 2011 (Staff Contact: Aaron Bueno, 586-3226)**

Background: Milpitas Community TV (MCTV Channel 26) is a non-profit group that utilizes the studio in City Hall for broadcast and programming community news. MCTV Executive Director Debra Whitlock Lax has requested a fee waiver for the use of the plaza and open space

between City Hall, the Community Center and the Senior Center for a community awareness event on Saturday, October 22, 2011. The event will be held from 10:00 a.m. to 2:00 p.m. and will promote community awareness of the channel along with opportunities for additional programming. MCTV would like use of the area from 8:00 a.m. to 3:00 p.m. to accommodate event setup and take down.

Fiscal Impact: Loss of \$782.50 in revenue to the City. Milpitas Community TV requested the City Council to waive fees (including in-kind donation) totaling \$782.50.

Recommendation: Approve a request from Milpitas Community TV for a fee waiver and in-kind donation of facility use and staffing, totaling \$782.50 for the Milpitas Community TV event on October 22, 2011.

- * 9. **Approve Fee Waiver and In-Kind Donation of Equipment and Staffing for Milpitas Parks and Recreation Foundation's 4th Annual "Festival of Trees" Gala Fundraiser at City Hall Rotunda on December 1, 2011 (Staff Contact: Renee Lorentzen, 586-3409)**

Background: The Milpitas Parks and Recreation Foundation holds its gala fundraiser "Festival of Trees" annually in the month of December. Proceeds from this event support scholarship and grant programs which benefit Milpitas residents who need assistance with participating in recreation activities. Over 150 people from the Milpitas business community as well as City and County dignitaries attended last year's event in support of the Foundation and helped to raise over \$17,000 – the most successful year to date.

The Milpitas Parks and Recreation Foundation was initially formed by members of the Milpitas Parks, Recreation and Cultural Resources Commission in response to the need of an organization that would be able to benefit the citizens of Milpitas through scholarships and grants.

The 4th Annual 2011 "Festival of Trees" will feature beautifully decorated holiday trees, sponsored and decorated by Milpitas' local and surrounding businesses and service groups. This year's Festival of Trees will be held on December 1, 2011 in the City Hall Rotunda, to coincide with the City of Milpitas' Tree Lighting Ceremony.

Fiscal Impact: The Milpitas Parks and Recreation Foundation is requesting that City Council approve the facility fee waiver for the City Hall Rotunda and Committee Conference Room and donation of equipment and staff time for a total of \$1,683.75. The Milpitas Parks and Recreation Foundation will still be required to pay for Insurance costs related to this event.

The cost associated for this event is in accordance with the City of Milpitas' fee structure for non-profit 501(c)3 organizations. Fees to be waived are as follows:

Pre-Event Setup – November 27, 2011

Rental fees Rotunda (7.5 hours @ \$37.50/hour)	\$281.25
Staff attendant fees (7.5 hours @ \$ 50/hour)	\$375.00
Deposit Rotunda	\$150.00

Event – December 1, 2011

Rental fees – Committee Conference Room (9 hours @37.50/hour)	\$337.50
Deposit Committee Conference Room	\$150.00
Rental Fees – Rotunda (4 hours @ \$37.50/hour)	\$150.00
Deposit Rotunda	\$150.00
Staff attendant fees (4 hours @ \$50/hour)	\$200.00
Application Fees	\$40.00

Use of City Marquee (4 weeks)	No Cost
TOTAL EVENT COST	\$1,813.75

Recommendation: Approve the Milpitas Parks and Recreation Foundation's request for facility rental fee waiver and in-kind donation of equipment and staffing totaling \$1,683.75 for the fourth Annual 2011 "Festival of Trees" Gala Fundraiser event in the Milpitas City Hall Rotunda.

XVI. ORDINANCE

- * **10. Waive the Second Reading and Adopt Ordinance No. 101.21 for Amendment to the Contract Between the Board of Administration California Public Employees' Retirement System (PERS) and the City of Milpitas (Staff Contact: Carmen Valdez, 586-3086)**

Background: On August 2, 2011, Ordinance No. 101.21 was introduced to amend the contract with the Public Employees Retirement System (PERS) to provide Section 20475 (Different Levels of Benefits), Section 21353 (2% at 60 Full Formula), and Section 20037 (Three-Year Final Compensation) for local miscellaneous members who are entering membership as a new hire with the City of Milpitas after the effective date of this amendment to the contract. Costs were disclosed as is required under Government Code Section 7507. Staff is now recommending the City Council to waive the second reading and adopt Ordinance No. 101.21.

Fiscal Impact: There is no immediate fiscal impact at this time. Savings will be achieved with all new hires.

Recommendations:

1. Waive the second reading of Ordinance No. 101.21 amending the contract with PERS.
2. Adopt Ordinance No. 101.21.

XVII. RESOLUTIONS

- * **11. Adopt a Resolution Approving the 2011 City of Milpitas Records Retention Schedule (Staff Contact: Donna Biles, 586-3003)**

Background: A records retention and destruction schedule is a key component to a records management program. Effective records management provides for efficient and economical management of public records and ensures records are retained until they no longer have administrative, fiscal or legal value. The first and current Records Retention Schedule was adopted by Council on December 5, 1995. At the March 27, 2009 Rules Subcommittee meeting, staff discussed amendments to Open Government Ordinance, including a provision that required an index of records. The Subcommittee agreed to delete this requirement from the ordinance with direction that the Records Retention Schedule be updated.

Under the guidance and direction of the Deputy City Clerk and legal review by the Deputy City Attorney, staff has prepared a schedule of all City records which describes the records, length of time the records must be kept with the appropriate government code, how and where the records are stored, and when the records may be destroyed. The schedules have been reviewed and approved by each City Department and the City Attorney. The Records Retention Schedule will be reviewed annually by staff and any amendments will be brought to the Council for approval.

Fiscal Impact: None.

Recommendation: Adopt a resolution approving the new 2011 City of Milpitas Records Retention Schedule for all City Departments.

- * **12. Adopt a Resolution Awarding a Contract to EcoPlexus, Inc. for the Main Sewer Pump Station Vehicle Canopy, Project No. 6079 (Staff Contact: Greg Armendariz, 586-3317)**

Background: In the 2011-2016 Capital Improvement Program and the Fiscal Year 2011-12 Budget, the City Council funded the construction of canopies at the Main Sewer Pump Station Corp Yard for the benefit of vehicle parking material storage and canopy rooftop solar panels.

The vehicle parking canopies and solar panels at the Main Sewer Pump Station Corp Yard would join the previously-approved solar energy generation network authorized by the City Council at its May 11, 2011 meeting. The City Council authorized the execution of a power purchase agreement with EcoPlexus, Inc., an experienced turn key provider of solar energy construction and services. Award of the Main Sewer Pump Station Vehicle Canopy Project to EcoPlexus, Inc. would ensure consistency and compatibility of solar facilities throughout the City. A sole source designation of canopies supports and rooftop designs supplied through EcoPlexus is required.

The price proposal submitted by EcoPlexus, Inc. for the project is \$487,667. The Engineer's Estimate for the project work was \$500,000. Staff therefore recommends award of this contract to EcoPlexus, Inc.

Fiscal Impact: None. Sufficient funds are available in the project budget.

Recommendation: Adopt a resolution awarding a contract to EcoPlexus, Inc. for the Main Sewer Pump Station Vehicle Canopy, Project No. 6079.

- * 13. **Adopt a Resolution Annexing Certain Real Property Commonly Known as the Los Coches Residential Project into Community Facilities District No. 2005-1, Project No. 2653 (Staff Contact: Fernando Bravo, 586-3328)**

Background: On August 16, 2011, the City Council approved a Subdivision Improvement Agreement, Covenants for an Encroachment Permit, a Stormwater Management Facilities Operation and Maintenance Agreement and the Final Map (Tract 10077) with Street Names and Public Improvement Plans No. 2-1142 for the Los Coches Residential Project. Furthermore, on March 15, 2011, the City Council approved the Tentative Map, Site Development Permit, and Conditional Use Permit for the Los Coches Residential Project, a residential subdivision of 83 single-family detached homes, private streets, and associated public improvements located on five acres at the eastern end of Los Coches Street. Robson Homes has now submitted the final map and public improvement plans, and has executed the subdivision improvement agreement and covenant for an encroachment permit. Staff has reviewed the documents and finds they satisfy the City's requirements for this project.

Robson Homes is now petitioning the City to annex the Los Coches Residential Project properties into Community Facilities District No. 2005-1 (CFD 2005-1). State law and Resolution 7521, adopted by the City Council on May 17, 2005, authorize the City to complete such annexation upon the property owner's written, unanimous consent, without further public hearing or formal election. Annexation into CFD 2005-1 will subject the properties to a special tax to pay for certain City services. Robson Homes' written consent and approval and other legally required materials and documents are attached to the draft resolution (included in the Council agenda packet).

Fiscal Impact: None.

Recommendation: Adopt a Resolution annexing certain real property commonly known as the Los Coches Residential Project (APNs 086-29-049 and 086-29-050) into Community Facilities District No. 2005-1, Project No. 2653.

- * 14. **Adopt a Resolution Approving Certain Rental Rates for the Barbara Lee Senior Center Classrooms and Community Room (Staff Contact: Renee Lorentzen, 586-3409)**

Background: The new Barbara Lee Senior Center opened in August of 2010 to the public for membership programs, classes, trips, special events and private rentals in the Denny Weisgerber Community Room. Recently, staff has received requests from for-profit and non-profit organizations for meeting space in Classroom/Conference Rooms, as well as non-profit organizations interested in renting the Community Room for events.

To be consistent with other City of Milpitas Classroom/Conference room rates and non-profit rates for auditorium space and to increase revenue for the City of Milpitas, staff is recommending the following rooms and Rental Rates be approved and added to the City's Master Fee Schedule and Facility Use Rules and Regulations Manual.

At the August 18, 2011 Finance Subcommittee meeting, the subcommittee was presented the proposed fee schedule. The subcommittee recommended that City Council approve adding Barbara Lee Senior Center Rooms 140 and 141 to the Master Fee Schedule and Facility Use Rules & Regulations Manual and instituting non-profit rates for the Barbara Lee Senior Center Community Room.

Proposed Senior Center Classroom/Conference Room Rental Rates:

Classroom 140 and 141 (Full)

<u>Resident Rate:</u>	<u>Non-Resident Rate:</u>	<u>Non-Profit Rate:</u>
\$20 – Application Fee	\$20 – Application Fee	\$20 – Application Fee
\$200 – Deposit (Refundable)	\$200 – Deposit (Refundable)	\$200 – Deposit (Refundable)
\$70/hr – Hourly Rate	\$90/hr – Hourly Rate	\$35/hr – Hourly Rate

Classroom 140 or 141 (Half)

<u>Resident Rate:</u>	<u>Non-Resident Rate:</u>	<u>Non-Profit Rate:</u>
\$20 – Application Fee	\$20 – Application Fee	\$20 – Application Fee
\$200 – Deposit (Refundable)	\$200 – Deposit (Refundable)	\$200 – Deposit (Refundable)
\$35/hr – Hourly Rate	\$55/hr – Hourly Rate	\$17.50/hr – Hourly Rate

Proposed Senior Center Community Room Resident Non-Profit Rental Rate:

<u>Non-Profit Rate:</u>	<u>Current Resident Rate:</u>
\$20 – Application Fee	\$20 – Application Fee
\$1,000 – Deposit (Refundable)	\$1,000 – Deposit (Refundable)
\$110/hr – Hourly Rate	\$220/hr – Hourly Rate

- Fee Waivers will not be available
- Requires (2) dedicated Building Attendants on site for entire rental (renter incurs cost)
- Rentals for adult majority attended events only (due to center's open floor plan)
- 3 hour minimum rental

Fiscal Impact: None.

Recommendation: Adopt a Resolution Approving Certain Rental Rates for the Barbara Lee Senior Center Classrooms and Community Room.

- * 15. **Adopt a Resolution Renewing the Sole Source Designation, and Authorizing the City Manager to Execute Amendment No. 6 to the Agreement with ThyssenKrupp for the Elevator Platinum Maintenance and Repair for the Annual Not-to-Exceed Amount of \$30,054.86 (Staff Contact: Chris Schroeder, 586-3161)**

Background: The elevators in the City Hall are ThyssenKrupp brand and the elevators in the Police and Public Works building are Dover brand. Dover was bought out by ThyssenKrupp. The technology to maintain the elevators is proprietary, solely owned by ThyssenKrupp. In August of 2005 the City entered into an annual automatically renewing Platinum Maintenance Agreement with ThyssenKrupp pursuant to MCC Section I-2-3.09 "Sole Source Procurement". A Sole Source designation is good for five years. Since the current Sole Source designation has expired but the contract is still in effect, staff recommends that Council renew the Sole Source designation for another five years. The contract allows for annual price adjustments. This amendment increases the annual rate by \$403.46 from \$19,651.40 to \$20,054.86 per the attached quotation dated August 10, 2011. This amendment also decreases incidental repairs and services not otherwise covered in the contract from \$13,000 per year to \$10,000.00; therefore the total annual contract amount decreases from \$32,651.40 to \$30,054.86.

Fiscal Impact: None. This is a programmed expense approved in the FY 11-12 budget for Facilities Maintenance.

Recommendation: Adopt a resolution renewing the sole source designation and authorizing the City Manager to execute Amendment No. 6 to the Agreement with ThyssenKrupp for Elevator Platinum Maintenance and Repair for the annual not-to-exceed amount of \$30,054.86.

XVIII. BIDS AND CONTRACTS

- * 16. **Approve the Side Letter Agreement Between the City of Milpitas and the Milpitas Police Officers Association (MPOA) (Staff Contact: Carmen Valdez, 586-3086)**

Background: At the August 2, 2011 City Council meeting, staff presented the Resolution of Intention and the City Council introduced Ordinance No. 101.21 to amend the City's contract with CalPERS to offer the 2% at age 60 and three-year final compensation formula for retirement for all new miscellaneous (non-safety) hires. Verbal agreement was reached with MPOA with respect to its miscellaneous employees and this requested action represents formal approval by the City Council. A copy of the recommended side letter agreement is included in the Council agenda packet.

Fiscal Impact: None.

Recommendation: Approve the Side Letter agreement between the City of Milpitas and the Milpitas Police Officers Association.

- * 17. **Award Bid No. 2010 for 9 Hewlett Packard Servers to Computer Land for the Not-to-Exceed Amount of \$39,189.24 Including Tax (Staff Contact: Chris Schroeder, 586-3161)**

Background: Staff issued an Invitation for Bids for nine Hewlett Packard Proliant servers for the Information Services department. Invitations for Bid were sent to 24 computer equipment suppliers on Purchasing's bidder list and six responded. The bid was also advertised in the local newspaper and on the City's website. The servers are part of the City's Information Services backbone and are replacing older obsolete 911 Dispatch equipment. The following is the recap of bids received, not including tax.

<u>Bidder</u>	<u>Amount</u>
Art Computer, Inc.	\$52,671.00
Diltex, Inc.	\$43,378.50
Action Computer	\$41,471.52
Cyber Computers, Inc.	\$39,525.00
Golden Gate Systems LLC	\$39,513.00
Computer Land	<u>\$36,202.53</u>

Fiscal Impact: None. Funds are available for this purchase from the Information Services operating budget for FY 2011-12.

Recommendation: Award IFB 2010 for nine Hewlett Packard servers to Computer Land for the not-to-exceed amount of \$39,189.24 including tax.

- * 18. **Approve and Authorize the City Manager to Execute an Agreement with Harris & Associates and Approve a Budget Appropriation, (Staff Contact: Fernando Bravo, 586-3328)**

Background: Due to current peak work load, development project priorities with new submittals of land development projects, and in order to meet project schedules of current projects and anticipated projects, staff is recommending additional consultant services to augment staff resources to assist with plan review services. The services provided by Harris & Associates will be for review of private development projects on an as-needed basis, and the cost will be fully reimbursed by the developer.

Harris & Associates has been selected based on recent past performances and through the City's consultant selection process. Staff has negotiated a scope and fee for these services not to exceed \$100,000, which is considered reasonable for the work. Included in the Council's packet are copies of the proposed agreement and budget request.

Fiscal Impact: The consultant fee for these services is reimbursable through the private project accounts.

Recommendations:

1. Approve and Authorize the City Manager to execute an agreement with Harris & Associates, in the amount of \$100,000, subject to approval as to form by the City Attorney.
2. Approve a budget appropriation in the amount of \$100,000 from the General Fund to the Engineering budget, to be reimbursed by private development funds.

XIX. DEMAND

- * 19. **Approve the Purchase of Assorted Badger Water Meters from National Meter and Automation for \$63,056.49 (Staff Contact: Chris Schroeder, 586-3161)**

Background: On May 15, 2007, pursuant to Municipal Code section I-2-3.13, Standardization, the City Council approved Badger meters as the standard brand of water meter for the City of Milpitas. Also on May 15, 2007, pursuant to Municipal Code Section I-2-5.03-4, the City Council approved National Meter and Automation as the sole source distributor for Badger Water Meters. The current purchase will allow staff to complete customer orders and restock the supplies that have been depleted during FY 2010-11.

Fiscal Impact: None. The purchase is a programmed expense approved in the FY 2011-12 budget for Utility Maintenance.

Recommendation: Approve the purchase of Assorted Badger Water meters from National Meter and Automation for the not-to-exceed amount of \$63,056.49.

XX. ADJOURNMENT

**NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, SEPTEMBER 20, 2011, AT 7:00 P.M**

